

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAWN MARIE PORCO,

Plaintiff,

v.

Case No. 2:21-cv-32-JLB-NPM

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER**

Before the Court are Defendant's Opposed Second Motion for Stay of Proceedings (Doc. 14) and Plaintiff's Response (Doc. 15). For a second time, Defendant requests this action be stayed in order to produce a certified transcript of the record and file an answer. (Doc. 14). In the second motion, Defendant updates the Court on new measures implemented by the Commissioner to process the certified administrative record and attaches an updated affidavit of the executive director of the Social Security Administration's Office of Appellate Operations. (Doc. 14, pp. 1-4; Doc. 14-1). In sum, the pandemic has impacted the agency's operations and it has a backlog of actions awaiting certified transcripts, but the agency has implemented new measures to overcome the backlog. (Doc. 14, pp. 2-4). In opposition, Plaintiff contends the Commissioner has not included the specific

status of the transcript in this case or the amount of time required to prepare the transcript. Plaintiff argues the delay coupled with the Commissioner being unable to confirm when the transcript will be filed causes harm, and argues the request for a second stay should be denied or alternatively limited to a shorter period of time. (Doc. 15, pp. 1-4).

A court has broad discretion whether to stay a proceeding “as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706-707 (1997). The court must weigh the benefits of the stay against any harms of delay. *Id.* at 707. Here, the Commissioner has provided good cause to extend the deadline to file the certified transcript and answer. But the Court finds an additional ninety-day extension would cause undue delay. After considering the circumstances, the Court will extend Defendant’s deadline to file a certified transcript and to answer by forty-five days.

Accordingly, the Opposed Second Motion for Stay of Proceedings (Doc. 14) is **GRANTED in part**. The Court extends the deadline for Defendant to file a certified transcript and answer to **July 26, 2021**. No further extensions will be granted without a detailed and case-specific showing that the Commissioner made a diligent effort to comply with the Court’s deadline.

**ORDERED** in Fort Myers, Florida on June 24, 2021.

  
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NICHOLAS P. MIZELL  
UNITED STATES MAGISTRATE JUDGE